

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

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|--|---|------------------|
| CENTEX HOMES, a Nevada General Partnership, |) | |
| |) | |
| Plaintiff, |) | CIVIL ACTION NO. |
| |) | |
| VS. |) | 3:13-CV-0719-G |
| |) | |
| LEXINGTON INSURANCE COMPANY, |) | |
| |) | |
| Defendant. |) | |

MEMORANDUM OPINION AND ORDER

This court is required to examine the basis for its subject matter jurisdiction, on its own motion if necessary. *Torres v. Southern Peru Copper Corp.*, 113 F.3d 540, 542 (5th Cir. 1997). Diversity of citizenship is alleged as the basis for subject matter jurisdiction in this case. Defendant's Motion of Removal ¶ 6 (docket entry 1). The plaintiff is alleged to be "a Nevada partnership doing business in the State of California." *Id.* ¶ 3.¹ The defendant is alleged to be "a Delaware corporation with its principal place of business in Boston, Massachusetts." *Id.* ¶ 4.

¹ In the plaintiff's original petition, the plaintiff alleges that it is "a Nevada general partnership" with "the following three general partners: Centex Real Estate Corporation, a Nevada corporation and managing partner; Centex Real Estate Holding, L.P., a Delaware limited partnership; and Nomas Corporation, a Nevada corporation." Plaintiff's Original Petition ¶ 2 (docket entry 1-5).

Diversity of citizenship jurisdiction requires that the citizenship of the plaintiff must be different from the citizenship of the defendant. *Strawbridge v. Curtiss*, 7 U.S. 267 (1806). The citizenship of the defendant here, Lexington Insurance Company, is the state of its incorporation (Delaware) and the state of its principal place of business (Massachusetts). 28 U.S.C. § 1332(c)(1). The citizenship of the plaintiff, Centex Homes, a partnership is determined by the citizenship of all its members. *Carden v. Arkoma Associates*, 494 U.S. 185 (1991).²

Within ten days of this date, the defendant -- as the party invoking the jurisdiction of this court -- shall electronically file and serve an amended notice of removal alleging the names and citizenship of all members of the plaintiff. Failure to timely file and serve such an amended notice of removal will result in remand of this case to the 14th Judicial District Court of Dallas County, Texas, without further notice.

SO ORDERED.

February 15, 2013.



A. JOE FISH
Senior United States District Judge

² From the allegations in the plaintiff's original petition, it appears that subject matter jurisdiction in this case may be lacking, as one of the plaintiff's members is a Delaware limited partnership. However, the names and citizenship of the partners of that partnership are not alleged. If there is a Delaware partner of that partnership, a citizen of Delaware would be on each side of this dispute.